IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRI. WRIT PETITION NO. 671 OF 2002

Mr. Tulsi Goyal .. Applicant.

V/s.

The State of Maharashtra & Ors. ..Respondents.

Shri Ashok M. Saraogi for the Applicant.
Shri Ashok Verma i/by Mayur Narendra & Co. for Respondent No.9.
Shri G.R. Naik for Respondent No.41.
Shri S.P. Bharati for Respondent No.42.
Shri V.B.Konde-Deshmukh, APP for Respondent No.1.

CORAM : A.M.KHANWILKAR, J.
DATED : FEBRUARY 24, 2005

PC :-

1. Heard counsel for the parties.

2. It is rightly argued by the counsel for respondent No. 41 that as the petitioner has already been granted liberty by this court to apply for dispensing his personal appearance in all the cases pending before the trial court, no further directions are warranted in this petition. However, the grievance of the petitioner is that he did make an application before the trial court, in one of the pending maters as per the said liberty, but the same

was rejected and warrants have been issued against him by the trial court. However, neither the said order of issuance of warrants by the trial court is annexed to this petition nor challenged in the present petition. Assuming that such warrant has been issued, now the legal position on the subject is answered in the recent decision of our High Court in the case of Bhaskar Sen vs. The State etc., decided on September 01, 2004 (Mr. Justice Bhosale); if the petitioner gives necessary undertaking before the trial court in terms of the said decision, there is no reason why the trial court would refuse to dispense with his personal
appearance, contrary to the law stated by this court. All that is required to be done by the petitioner is to give undertaking to the trial court, amongst others, that even the plea on behalf of the petitioner will be recorded by his Advocate and that he will not raise any technical objection of any manner due to his non appearance during the trial. If this condition and other requirements, as stated in the reported decision are complied with, the trial court, will be obliged to consider the application of the petitioner favourably.

3. Accordingly, this application is disposed of by giving limited protection to the petitioner for a period of three weeks from today. The petitioner will not be arrested for a period of three weeks from today within which time, the petitioner will prefer necessary application before the respective court, if so advised, and seek appropriate directions in accordance with law.

4. Petition disposed of with the above observations.

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